IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.7416 of 2004

Between:

1 Tangudu Vailkunta Rao S/o Kameswara Rao
Palasa, Srikakulam Dist
2 Tangudu Veera Raju S/o Kameswara
Palasa, Srikakulam District.

..... PETITIONERS

AND

1 District Registrar of Assurances
Srikakulam
2 Sub-Registrar of Assurances, Kasibugga,
Srikakulam District

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus, under Art. 226 of the Constitution of India declaring the proceedings of the 1st Respondent bearing No.1-2/2003/C.No. 244/2003/G1,
dt.21-7-2003 calling upon the petitioners to pay the deficit duty of Rs.86,653 and penalty of Rs.500 in respect of document No.P.24/1999 pending registration before 2nd respondent as arbitrary, illegal, without jurisdiction.

Counsel for the Petitioners : MR.M.S.R.SUBRAHMANYAM

Counsel for the Respondents : GP FOR REVENUE

The Court made the following :

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ORDER :

The petitioners herein and their father one Sri Kameswara Rao are partners in a firm in the name and style of M/s. Sree Hari Shankar Cashew Industries. By a deed of retirement
dated 31-3-1999, father of the petitioners retired from the firm effective from 31-3-1999. Under clause (1) of the said deed, the Cashew Factory along with appurtenant land devolved on the retiring partner and the other business of running the Cinema Theatre devolved on the petitioners herein, who are entitled to carry on the business in the name and style of M/s. Sree Ravi Shankar Picture Palace. The said deed was presented for registration, duly paying a fixed stamp duty of Rs.300/- under Article 41 (b), Schedule I-A of Indian Stamp Act, 1899 (for short 'the Act'). The Sub-Registrar, Kasibugga, referred the matter to the District Registrar, Srikakulam, duly impounding the document under Section 33 of the Act. After issuing a show-cause notice and after receiving the explanation, the District Registrar, first respondent herein, by impugned proceedings dated 21-7-2003 adjudicated the document under Section 2 (5) of the Act chargeable to duty under Articles 41 B and 40 of Schedule I-A of the Act and the petitioners herein were called upon to pay the deficit stamp duty of Rs.86,655/- assailing which the present writ petition is filed.

Though interlocutory applications are listed, the matter was heard finally and is being disposed of with the consent of the parties. The power exercised by first respondent is subject to the control of the Chief Controlling Revenue authority i.e., Inspector General of Stamps and Registration. It is always open to the petitioners to raise their objections by making a representation to such Chief Controlling Revenue authority. In view of the remedy available, this Court is not inclined to go into the question at this stage. Two weeks time is granted to make such representation/ revision petition before the Chief Controlling Revenue authority, who on such representation being made, shall consider all submissions and pass appropriate orders.

The writ petition, with the above observations, is disposed of. No costs.

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(V.V.S. RAO, J.)

04-10-2004.

Msr.

NOTE : Office to dispatch a copy of this

order within one week.

B/o.

Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 District Registrar of Assurances
Srikakulam
2 Sub-Registrar of Assurances, Kasibugga,
Srikakulam District

3. 2CCs to G.P. for Revenue, High Court Buildings, Hyderabad.

4. 2CD copies